



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/812,023	03/30/2004	Kazunori Irihune	056208.50262C2	2806

23911 7590 07/08/2005  
CROWELL & MORING LLP  
INTELLECTUAL PROPERTY GROUP  
P.O. BOX 14300  
WASHINGTON, DC 20044-4300

EXAMINER

KWON, JOHN

ART UNIT PAPER NUMBER

3747

DATE MAILED: 07/08/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/812,023

Applicant(s)

IRIHUNE ET AL.

Examiner

John T. Kwon

Art Unit

3747

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 06 May 2005.  
 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.  
 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 27-35 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.  
 6) ☒ Claim(s) 27-35 is/are rejected.  
 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.  
 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.  
 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) ☒ All b) ☐ Some \* c) ☐ None of:  
 1. ☐ Certified copies of the priority documents have been received.  
 2. ☒ Certified copies of the priority documents have been received in Application No. 09/890,704.  
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
 \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)  
 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)  
 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
 Paper No(s)/Mail Date \_\_\_\_\_  
 4) ☐ Interview Summary (PTO-413)  
 Paper No(s)/Mail Date. \_\_\_\_\_  
 5) ☐ Notice of Informal Patent Application (PTO-152)  
 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 28 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The phrase "a difference in level" is vague and indefinite.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 27-35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bentz (US 5 718 202) in view of Sturdy (US 4 604 976). Bentz discloses a throttle apparatus integrally formed with a throttle valve housing and a throttle actuator housing. A cover and an air flow meter are provided. However, Bentz does not show the use of a board with a module housing. Sturdy shows that the use of an electronic control device mounted with a housing is old and well known in the art. Since the prior art references art from the same field of endeavor, the purpose disclosed by Sturdy would have been recognized in the pertinent art of Bentz. Therefore, it would have been obvious at the

Art Unit: 3747

time the invention was made to a person having ordinary skill in the art to provide the device of Bentz with the electronic board mounted within the housing as taught by Sturdy in order to make a compact device. Regarding the claimed particular device such as a thermometer and a pressure meter in the throttle apparatus, it would have been considered to be an obvious choice of mechanical design because one skilled in this art is familiar with basic fluid mechanic and normally has the laboratory test facilities. To optimize or select the suitable devices such as a thermometer and a pressure meter would be within the ability of ordinary skilled in this art.

Claims 27-35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bentz (US 5 718 202) and Sakakibara (US 5 055 781). Bentz discloses a throttle apparatus integrally formed with a throttle valve housing and a throttle actuator housing. A cover and an air flow meter are provided. However, Bentz does not show the use of a board with a module housing. Bentz discloses a throttle apparatus integrally formed with a throttle valve housing and a throttle actuator housing. A cover and an air flow meter are provided. However, Bentz does not show the provision of a board mounted on a cover member and a partition wall. Sakakibara shows that the provision of a board mounted on a cover member is old and well known in the art. Since the prior art references art from the same field of endeavor, the purpose disclosed by Sakakibara would have been recognized in the pertinent art of Bentz. Therefore, it would have been obvious at the time the invention was made to a person having ordinary skill in the art to provide the device of Bentz with the electronic board mounted within the housing as taught by Sakakibara in order to make a compact device. Regarding the claimed particular device

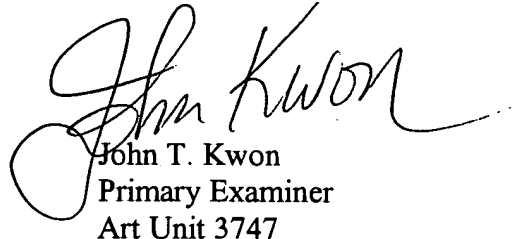
Art Unit: 3747

such as a thermometer and a pressure meter in the throttle apparatus, it would have been considered to be an obvious choice of mechanical design because one skilled in this art is familiar with basic fluid mechanic and normally has the laboratory test facilities. To optimize or select the suitable devices such as a thermometer and a pressure meter would be within the ability of ordinary skilled in this art.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to John T. Kwon whose telephone number is (571) 272-4846. The examiner can normally be reached on M-Th.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Henry Yuen can be reached on (571) 272-4856. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
John T. Kwon  
Primary Examiner  
Art Unit 3747

July 5, 2005